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**Commission on Ethics &
Public Trust
Miami-Dade County**

Memorandum

To: Miguel Diaz de La Portilla, Mayoral Candidate 2004

The Honorable Carlos Alvarez, Mayor
Miami-Dade County

The Honorable Chairperson, Joe Martinez
and Members, Board of County Commissioners

From: Robert Meyers, Executive Director, Commission on Ethics

Date: March 1, 2006

Re: Final Audit Report – Miguel Diaz de La Portilla Election Campaign 2004

Attached is your copy of the above-referenced final audit report.

Overall, the Commission on Ethics (COE) concluded that the campaign expenditures were in compliance with the requirements of the Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds.

However, the COE did observe a few instances of non-compliance with Florida Statutes Title IX, Chapter 106, "Campaign Financing." Examples of lack of compliance with Florida statutes include payments to third party intermediaries such as media consultants, improperly using a secondary campaign depository for vendor payments, failure to close the campaign account within the requisite time period, reimbursements paid to individuals for disallowed costs, acceptance of campaign contributions within five (5) days of election date, and lack of sufficient supporting documentation for campaign expenses.

cc: Kerry Rosenthal, Chairman, Commission on Ethics and Public Trust
Lester Sola, Supervisor of Elections
Alex Trujillo, Deputy Campaign Treasurer

**COMMISSION ON ETHICS & PUBLIC TRUST
POST-ELECTION AUDIT OF THE CAMPAIGN ACCOUNT OF**

**Miguel Diaz de la Portilla
COUNTY MAYORAL CANDIDATE 2004**

SUMMARY OF AUDIT FINDINGS

Item No.	Audit Findings	FL Statute / County Code Violation	Comments
1	The candidate's primary campaign bank account was closed more than 3 weeks after the 90-day deadline for disposing of surplus funds. (p. 5)	County Code §12-22 (f)(6) and Florida Statute §106.141(4) requires that the candidate dispose of any surplus funds remaining in the campaign account within after the election date. Given that the election was on August 31, 2004, the 90-day period for returning any surplus funds ended on November 30, 2004.	The Diaz de la Portilla primary campaign account was closed on December 29, 2004. The campaign had a remaining balance of \$232.84 and wrote a check for the same amount to St. Thomas Episcopal Church as a charitable contribution to close out the campaign fund. According to County Code §12-22 (f)(6), the \$232.84 in surplus funds should have been returned to the county's Election Campaign Financing Trust Fund.
2	The candidate improperly used funds that were deposited in a secondary campaign depository. (pp. 6 – 7)	Florida Statute §106.021(1)(b) states that a candidate may deposit funds from the primary campaign account into a separate interest-bearing account. The statute also states that a secondary depository must only be used for the sole purpose of depositing contributions and forwarding the deposits into the primary campaign depository.	Certificate of Deposit Acct. No. 800188 was opened on March 5, 2004, with \$400,000 transferred from the primary campaign account. The CD matured on June 3, 2004 and the full balance of \$400,885.25 (\$400,000 opening balance plus \$885.25 in earned interest) was rolled-over into Money Market Account No. 9660440067 on June 10, 2004. To comply with Florida statute, these funds should have been re-deposited into the primary campaign account. On June 16, 2004, the campaign transferred an additional \$150,000 from the primary campaign account into the money market account. The account earned an interest payment of \$233.19 on June 30, 2004, which resulted in an ending balance of \$551,118.44. According to the Florida Statute 106.021 (1)(b), a secondary depository is used for the sole purpose of depositing contributions and forwarding the deposits to the primary campaign depository. However, based on review of the July 2004 bank statement, the COE auditor noted that a total of \$266,295 was wire transferred from the money market account to a vendor, "The Victory Group" on three (3)

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SUMMARY OF AUDIT FINDINGS

			separate dates. {See Exhibit C.} To comply with the Florida Statute, the campaign should have re-deposited the funds into the primary campaign account, from which direct payments should have been made to the vendor, The Victory Group.
3	Reimbursements paid to campaign consultants/staffers for disallowed costs. (p. 8)	Florida Statute §106.021(3) states that reimbursements may be made for travel, food and beverage, office supplies, and mementos of gratitude to campaign supporters.	On August 18, 2004, the campaign reimbursed Luis Enrique Rojas \$1,000 for the rental of a helicopter. {See Exhibit D.} On August 20, 2004, the campaign reimbursed Renier Diaz de la Portilla \$3,234.31 for printing and advertising expenses. {See Exhibit E.}
4	\$11,050 in campaign expenditures were paid through a third party intermediary. (p. 8)	FL Stats. §106.021 (3) and §106.011 (1) prohibits direct or indirect campaign expenditures in furtherance of a candidate's election campaign except through the campaign treasurer drawing checks from the campaign bank account.	The Diaz de la Portilla campaign made \$11,050 in payments to "Vote Com, Inc." for the purpose of paying poll worker salaries.
5	The Diaz de la Portilla campaign paid various media consultants, a total of \$675,989.63 (52% of total campaign expenses) for the procurement of media placement ads. (p. 9)	Florida Elections Commission decisions DE 03-08 and DE 86-14, which interprets Florida Statute §106.11(1), states the following: <i>"A candidate who is procuring both media related consultant services and mass media political advertisements must issue separate checks drawn on the campaign account to media consultant for their services and to each media outlet that is providing advertising services."</i>	Based on a review of cancelled checks and supporting documentation, the COE found that the Diaz de la Portilla campaign made twelve (12) payments totaling \$675,989.63 to various media consultants for the purchase of media placement ads.

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5	The COE auditor found \$38,209.71 (3% of total campaign expenses) in campaign expenditures that lacked support in the form of vendor invoices or receipts. (p. 10)	Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) requires the campaign to maintain adequate supporting documentation for all campaign expenditures.	The COE auditor could not verify the validity of \$38,209.71 in campaign expenditures as these expenses lacked any supporting documentation in the form of an invoice or receipt from the vendor that provided the goods and/or services. {See Exhibit F.}
6	Campaign accepted and deposited contributions within five (5) days of the primary and run-off elections. (p. 10)	Florida Statute §106.08 (3) (a) states that contributions received within five (5) days of the election must be returned to the contributor.	For the primary election held on August 31, 2004, a candidate may not accept campaign contributions after midnight on August 27th through August 31, 2004. Based on a review of the Campaign Treasurer's Report, the Miguel Diaz de la Portilla Campaign deposited the following contributions within the five day period of the primary election: two (2) contributions totaling \$400.00 on September 2, 2004; and two (2) contributions totaling \$1,308.00 on September 7, 2004. {See Exhibit G.}

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Post-Election Audit of the Campaign Account of
Mayoral Candidate – Miguel Diaz de la Portilla**

INTRODUCTION

In March of 2001, the Miami-Dade County Board of County Commissioners adopted Ordinance No. 01-39 (the Ordinance) for campaign financing reform which is codified in Miami-Dade County Code §12-22. The Ordinance is intended to make the political process more accessible to candidates who run for the office of County Mayor or Commission by providing eligible candidates with public funding from the Election Campaign Financing Trust Fund (the Fund).

The Ordinance establishes the eligibility requirements that a candidate must meet in order to receive public financing from the Fund. For the office of County Commissioner, each candidate who satisfies these requirements may be eligible for a maximum contribution of \$75,000 in the primary election, and an additional \$50,000 if a run-off election occurs. For the office of Mayor, each candidate who satisfies the eligibility requirements may receive \$300,000 for the primary election and an additional \$200,000 if the candidate is in a run-off election.

Additionally, the Ordinance requires the Commission on Ethics & Public Trust (COE) to conduct post-election audits ninety (90) days following the date of the election for those candidates who received public funding from the County. This is in keeping with both the requirements of §12-22 (f)(6) of the Miami-Dade County Code and Florida Statute §106.141 (4), which require that the candidate dispose of any surplus funds remaining in the campaign account within 90-days of the election date by: (1) returning all surplus funds to the Election Campaign Financing Trust Fund; and (2) any funds remaining in the campaign account that are in excess of the public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds.

Accordingly, the COE conducted a post-election audit of the campaign account of Miguel Diaz de la Portilla, mayoral candidate, who received a total of \$300,000 in public funding for the primary election held on August 31, 2004.

PURPOSE & SCOPE OF THE AUDIT

The post-election audit conducted by the COE focuses primarily on campaign expenditures as other Miami-Dade county agencies have been involved in current, on-going examinations of all campaign contributions for those candidates who received public monies. Therefore, the COE focused on the following audit objectives:

1. Verify that the candidate complied with County Code §12-22 (e)(1), which sets forth the expenditure limits for those candidates who receive public financing.
2. Verify that the candidate complied with County Code §12-22 (g), "Use of Funds," which states the following six (6) types of expenditures that public funds **cannot** be used for:

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- a. Clothing for a candidate or an immediate family member of the candidate, except for a political advertisement as defined in Florida Statute §106.001 (17). An immediate family member is defined as the spouse, parents, children, and siblings of the candidate.
 - b. The purchase or rental of any vehicle for a candidate.
 - c. The enhancement of any vehicle owned by a candidate or an immediate family member of the candidate.
 - d. Personal grooming or cosmetic enhancements for a candidate.
 - e. Payment to a candidate or an immediate family member for the purchase of any goods or services.
 - f. Payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member for the purchase of any goods or services. “Controlled by” shall mean ownership, directly or indirectly, of 5% or more of the outstanding capital stock in any corporation, or direct or indirect interest of 5% or more in a firm, partnership, or other business entity.
3. Verify that the candidate disposed of any surplus funds remaining in the campaign account within 90-days following the election as required by County Code §12-22 (F) (6) and Florida Statute §106.141 (4).
4. Review for compliance with applicable sections of Florida Statute Title IX, Chapter 106, “Campaign Financing.”

The COE obtained copies of all bank statements and cancelled checks drawn against the campaign account, original and/or copies of vendor invoices and receipts, as well as any other accounting records, contracts and/or documentation which would substantiate the amount and purpose of the candidate’s campaign expenditures.

The scope of the audit encompassed the period of April 10, 2003 through December 29, 2004, which coincides with the timeframe that the Diaz de la Portilla campaign had three (3) separate campaign bank accounts¹ opened and subsequently closed. Additionally, the COE audited 100% of all campaign expenditures as reflected on the Campaign Treasurer’s Reports.

¹ On March 5, 2004, the Diaz de la Portilla campaign opened a certificate of deposit in Account # 800188 with \$400,000 from the primary campaign bank, Acct. #9660352866. Upon maturity on June 10, 2004, the balance from the CD Acct. #800188 (\$400,885.25) was transferred into a newly established money market account, Account #9660440067. On June 16, 2004, the campaign transferred \$150,000 from the primary campaign account into acct. #9660440067.

According to Florida Statute §106.021(1)(b), *“a candidate may deposit any funds which are in the primary campaign depository and which are not then currently needed for the disbursement of expenditures into a separate interest-bearing account in any bank, savings and loan association, or credit union authorized to transact business in this state.”*

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SUMMARY OF CAMPAIGN ACCOUNT ACTIVITY

Based on a review of the final Campaign Treasurer's Report (CTR) and the campaign's bank statements, the Miguel Diaz de la Portilla campaign had a total of \$1,304,799.70 to run the candidate's election campaign. Of the total \$1,304,799.70 in campaign funds, \$300,000 (23%) was received in public funds and the remaining \$1,004,799.70 (77%) was acquired through private and in-kind contributions.

Additionally, the COE noted that the campaign account bank statements reflect total deposits and expenditures to be \$1,304,799.70, which is \$510.00 less than the amount of total contributions and expenditures of \$1,305,309.7 reported on the final CTR. The COE was unable to reconcile the \$510.00 variance in actual campaign expenses per the bank statements to the amount reported on the final CTR. {See Exhibit A.}

A breakdown of how the campaign funds were spent is shown in Table I. below by expense type:

TABLE I.

BREAKDOWN OF EXPENSES			
EXPENSE TYPE	\$ AMOUNT OF EXPENSE	% OF TOTAL EXPENSES	ALLOWABLE PER §12-22(g)?
3 rd Party Media Buys	\$ 675,989.63	52%	Y
Advertising	149,107.90	12%	Y
Postage	138,764.27	11%	Y
Printing Expenses	85,473.69	7%	Y
Temporary Staff	52,427.90	4%	Y
Promotional Expense	29,894.62	3%	Y
Reimbursements ²	29,708.09	3%	Y
Campaign Salaries	27,815.63	2%	Y
Marketing Expenses	19,072.13	2%	Y
Web Services	16,296.50	1%	Y
Media Consultant	12,028.85	1%	Y
Poll Workers ³	11,050.00	1%	Y
Utility	8,331.76	1%	Y
Professional Services	6,425.18	-	Y
Election's Expenses	5,474.00	-	Y
Private Investigator	5,000.00	-	Y
Office Equipment	4,746.61	-	Y
Car Rental ⁴	4,261.01	-	Y

² These expense reimbursements were generally in compliance with Florida Statute §106.021(3), which allow the reimbursements for: travel, food and beverages, office supplies, and mementos expressing gratitude to supporters. However, the campaign issued reimbursements for printing services, advertising expenses and a helicopter rental on behalf of the campaign. These expenses are not allowed to be paid as reimbursements per Florida Statute §106.021(3).

³ Poll Worker salaries were paid through a 3rd party consultant, "Vote Com, Inc." (See p. 9 of this report.)

⁴ The car rentals were for campaign mobilization efforts, not for the candidate himself.

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Meal Expenses	3,827.43	-	Y
Rent	3,210.00	-	Y
Returned Deposits	3,040.00	-	Y
Refund Contribution	2,730.00	-	Y
Bank Charges	2,122.75	-	Y
Fundraiser	1,933.84	-	Y
Unknown expense ⁵	1,000.00	-	?
Cell Phone	1,446.60	-	Y
Political Consultant	1,000.00	-	Y
Parking Expense	831.80	-	Y
Petty Cash	600.00	-	Y
Office Supplies	440.01	-	Y
Courier Service	266.66	-	Y
Bond	250.00	-	Y
Charitable Contribution	\$ 232.84	-	Y
TOTAL:	\$1,304,799.70	100.00%	

CANDIDATE’S COMPLIANCE WITH COUNTY CODE §12-22

a. Compliance with Campaign Expenditure Limits

Miami-Dade County Code §12-22 (e) requires that Mayoral candidates who request public funding from the Elections Campaign Financing Trust Fund limit their campaign contributions and expenditures to \$600,000 for the primary election unless one candidate exceeds the established contribution limit. On November 25, 2003, the campaign contribution limit was lifted for the Mayoral race, as one candidate exceeded the contribution limit by raising contributions in excess of the \$600,000 limit. Therefore, as a result of the expenditure limit being lifted for the Mayoral campaign, candidates were able to raise contributions in excess of the established limits set for both the primary and run-off elections (i.e. \$600,000 and \$400,000, respectively).

b. Compliance with County Code §12-22, Subsection (g) “Use of Funds”

To verify the candidate’s compliance with Code §12-22 (g), “Use of Funds,” the COE reviewed all campaign expenses and verified that the public funding portion of the campaign account was not used to pay for: clothing for the candidate or their immediate family member, except for a political advertisement as defined Florida Statute §106.001 (17); the purchase or rental of any vehicle for a candidate; the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; or person grooming or cosmetic enhancements for a candidate.

⁵ The Diaz de la Portilla campaign made a \$1,000 payment to Royalty A.L.J. Corporation on October 28, 2004 for unspecified goods and/or services. The COE also notes that Royalty A.L.J. Corporation was administratively dissolved on 09/16/05. The COE was not provided with any supporting documentation to verify this campaign expense.

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Additionally, for payments made to individuals from the campaign account, the COE researched whether the payee was an immediate family member of the candidate. “Immediate family member” refers to the candidate’s spouse, parents, children, and siblings. For payments made to business entities from the campaign account for the purchase of goods or services, the COE researched whether the business entity is owned or controlled by the candidate or an immediate family member of the candidate. Based on our review, the COE concludes that the candidate complied with the requirements of §12-22 (g), “Use of Funds,” as no payments were made from the campaign account for disallowed expenditures.

NO EXCEPTIONS NOTED.

c. Compliance with County Code §12-22, Subsection (f)(6) “Disposal of Surplus Funds”

County Code §12-22 (f)(6) and Florida Statute 106.141 (4) requires that the candidate dispose of any surplus funds remaining in the campaign account within 90 days after the election date in the following manner: (1) return all surplus funds to the county’s Election Campaign Financing Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the county’s public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus funds. Given that the election was on August 31, 2004, the 90-day period for returning any surplus funds ended on November 30, 2004.

The COE auditor noted that the campaign funds in the two separate interest-bearing accounts were disposed of within the 90- day deadline. **No exceptions noted.**

AUDIT FINDING

The COE notes that the candidate’s primary campaign bank account was closed on December 29, 2004, **which is more than three (3) weeks after the 90-day deadline for disposing of surplus funds.** The campaign had a remaining balance of \$232.84 and wrote a check for the same amount to St. Thomas Episcopal Church as a charitable contribution to close out the campaign fund. According to County Code §12-22 (f)(6), the \$232.84 in surplus funds should have been returned to the county’s Election Campaign Financing Trust Fund.

COMPLIANCE WITH FL STATUTE TITLE IX, CHAPTER 106, “CAMPAIGN FINANCING”

Election campaign finance laws are found in Florida Statute Chapter 106, Campaign Financing, and interpretations of these statutes are provided by the Florida Elections Commission as Elections Opinions. As part of this audit, the COE reviewed the relevant Florida statutes and the Elections Opinions to ensure the candidate’s campaign was in substantial compliance with the applicable statutory requirements.

Through review of the campaign bank account records, cancelled checks, related vendor invoices, and other supporting documentation for campaign expenditures, the COE made the following audit observations with regards to compliance with Florida Statute Chapter 106:

a. Improper Use of a Secondary Depository

At various times during the election period, the candidate operated three (3) separate bank accounts: one (1) primary campaign depository and two (2) separate interest-bearing accounts. Florida Statute §106.021 (1)(b) states:

“A candidate may deposit any funds which are in the primary campaign depository and which are not then currently needed for the disbursement of expenditures into a separate interest-bearing account in any bank, savings and loan association, or credit union authorized to transact business in this state.”

Further, Florida Statute 106.021 (1)(b) states that a candidate may also designate one secondary depository in each county in which an election is held **for the sole purpose of depositing contributions and forwarding the deposits to the primary campaign depository.**

AUDIT FINDINGS

1. Certificate of Deposit (CD) Account No. 800188

This CD account (No. 800188) was opened on March 5, 2004, with \$400,000 that was transferred from the primary campaign account. The CD matured on June 3, 2004 and the full balance of \$400,885.25 (\$400,000 opening balance plus \$885.25 in earned interest) was rolled-over into Money Market Account No. 9660440067 on June 10, 2004. {See Exhibit B.}

To comply with the Florida statute, these funds should have been re-deposited into the primary campaign account.

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2. Money Market Account No. 9660440067

AUDIT FINDING

A money market account, Account No. 9660440067, was opened on June 10, 2004, with \$400,885.25. The source of these funds came from a roll-over from CD Account No. 800188. On June 16, 2004, the campaign transferred an additional \$150,000 from the primary campaign account into the money market account. The account earned an interest payment of \$233.19 on June 30, 2004, which resulted in an ending balance of \$551,118.44.

According to the Florida Statute 106.021 (1)(b), a secondary depository is used for the sole purpose of depositing contributions and forwarding the deposits to the primary campaign depository. However, based on review of the July 2004 bank statement, the COE auditor noted that a total of \$266,295 was wire transferred from the money market account to a vendor, “The Victory Group” on three (3) separate dates. **{See Exhibit C.}** To comply with Florida law, the campaign should have re-deposited the funds into the primary campaign account, from which direct payments should have been made to the vendor, The Victory Group.

The following summarizes these three (3) wire transfer payments totaling \$266,295 (approximately 17% of total campaign funds) from the campaign’s money market account to “The Victory Group:”

- 1) On July 14, 2004 - \$100,015 (which includes a \$15 bank transfer charge) was wired to “The Victory Group” for the purchase of media placement ads;
- 2) On July 20, 2004, another payment of \$100,015 was wired to The Victory Group; and,
- 3) On July 23, 2004, a third payment of \$66,265 was wired to The Victory Group.

On July 31, 2004, the account earned an interest payment of \$294.82, which resulted in an ending balance of \$285,118.26. The COE notes that the remaining balance of \$285,118.26 was properly transferred from the money market account into the primary campaign account on the following dates: **NO EXCEPTIONS NOTED.**

- August 13, 2004 - \$ 30,000.00
- August 16, 2004 - \$100,000.00
- August 19, 2004 - \$ 90,118.26
- August 23, 2004 – \$ 65,000.00

TOTAL \$285,118.26

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b. Reimbursements Paid for Disallowed Costs per Florida Statutes

Florida Statute §106.021(3) addresses what is allowable as a reimbursement from a candidate's campaign bank account and, in part, states the following:

“...a candidate or any other individual may be reimbursed for expenses incurred for travel, food, and beverage, office supplies, and mementos expressing gratitude to campaign supporters by a check drawn upon the campaign account...”

AUDIT FINDING

The COE noted the following reimbursements paid to individuals for campaign expenses that should have been paid directly by the campaign to the vendor/service provider from the primary campaign bank account and not paid to a third party as a reimbursement, in lack of compliance with Florida Statute §106.021 (3):

1. On August 18, 2004, Luis Enrique Rojas was reimbursed \$1,000 from the campaign for the rental of a helicopter. {See Exhibit D.}
2. On August 20, 2004, Renier Diaz de la Portilla was reimbursed \$3,234.31 from the campaign for printing and advertising expenses. {See Exhibit E.}

c. Expenditures in Furtherance of the Campaign through Third Parties

Florida Statutes §106.021(3) and §106.11(1) prohibit direct or indirect campaign expenditures in furtherance of a candidate's election campaign except through the duly appointed campaign treasurer. Additionally, Florida Statute §106.011 (1) prohibits the expenditures of campaign funds on behalf of a candidate from any bank account other than the candidate's primary campaign account. Therefore, any campaign expenditure made by an intermediary on behalf of the candidate from the intermediary's personal or business bank account is in violation of Florida Statute §106.011 (1).

AUDIT FINDING

Based on a review of cancelled checks and supporting documentation, the Diaz de la Portilla campaign contracted with “Vote Com, Inc.” for the purpose of paying poll workers' salaries. More specifically, the campaign paid “Vote Com, Inc.” a total of \$11,050.00 in three (3) separate check payments. The timeframe of the payments are as follows:

	<u>Date</u>	<u>Amount</u>	<u>Check No.</u>
•	September 9, 2004	\$ 7,800	1568
•	September 10, 2004	1,000	1599
•	September 16, 2004	<u>2,250</u>	1624
	TOTAL	\$11,050	

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d. Campaign Payments to Media Consultants for the Purchase of Media

The Florida Elections Commission decision DE 86-14, which interprets Florida Statute §106.11(1), states the following:

*“A candidate who is procuring both media related consultant services and mass media political advertisements **must issue separate checks drawn on the campaign account to media consultant for their services and to each media outlet that is providing advertising services.**”*

Additionally, the Florida Elections Commission held in DE 03-08 that if a media consulting firm was to pay for a candidate’s actual advertisements it would be considered a direct expenditure in furtherance of the candidate and as such it is prohibited because the expense incurred was not paid directly from the candidate’s campaign account.

AUDIT FINDING

Based on a review of cancelled checks and supporting documentation, the COE found that the Diaz de la Portilla campaign made twelve (12) payments totaling \$675,989.63 (52% of campaign expenses) to various media consultants for the purchase of media placement ads. This violates Florida law as the Diaz de la Portilla campaign should have issued separate campaign checks to both the media outlets and to each media consulting firm. **(See Table II.)**

Table II.

<u>Date</u>	<u>Amount</u>	<u>Method of Payment</u>	<u>Vendor Name</u>
07/06/04	\$ 19,098.00	Check #1198	Creative Ideas Advertising
07/14/04 ⁶	100,000.00	Automatic Debit	The Victory Group
07/16/04	40,000.00	Check #1212	The Victory Group
07/20/04 ⁶	100,000.00	Automatic Debit	The Victory Group
07/21/04	10,000.00	Check #1218	The Victory Group
07/23/04 ⁶	66,250.00	Automatic Debit	The Victory Group
07/29/04	1,020.00	Check #1244	Millennium Productions
07/30/04	204,000.00	Automatic Debit	The Victory Group
08/04/04	621.63	Check #1278	The Victory Group
08/19/04	65,000.00	Automatic Debit	The Victory Group
08/23/04	50,000.00	Automatic Debit	The Victory Group
08/27/04	<u>20,000.00</u>	Automatic Debit	The Victory Group
TOTAL	\$675,989.63		

⁶ This payment was NOT issued from the primary campaign bank account (Acct. # 9660352866); rather payment was issued from the campaign’s money market account (Acct. #9660440067).

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e. Insufficient Supporting Documentation for Campaign Expenses

During the course of the audit, the COE auditor found that there was a total of \$38,209.71 (approximately 3% of total campaign expenses) in campaign expenditures that lacked any supporting documentation in the form of an invoice or receipt from the vendor that provided the goods and/or services. Failure to provide supporting documentation for campaign expenses violates Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1). **{See Exhibit F for a list of unsupported campaign expenses.}**

In addition to the unsupported campaign expenses above, the COE also noted that the campaign paid the United States Postal Service (USPS) \$130,366.14 for postage related to the election. However, the COE auditor was not provided with the USPS receipts by the campaign. Although the Miguel Diaz de La Portilla campaign made a good faith effort to obtain copies of the receipts from the USPS, the COE auditor requested of the Campaign Treasurer to provide all cancelled checks associated with the \$130,366.14 in payments to the USPS for review purposes.

As an alternate audit procedure, the COE verified that the check payments to the USPS were in fact cashed by the USPS for the payment of postage associated with the election campaign. Thus, although receipts for the USPS expenses were not maintained by the campaign, the COE determined that these payments were incurred as legitimate campaign costs. However, the campaign should have maintained the original USPS receipts to allow the expenses to be readily verifiable as bona-fide campaign expenses.

f. Receipt and Deposit of Campaign Contributions within Five Days of Election

Florida Statute §106.08 (3)(a) states that contributions received within five days of the election date must be returned to the contributor. For example, for the primary election held on August 31, 2004, a candidate may not accept campaign contributions after midnight on August 27th through August 31, 2004.

1. Based on a review of the Campaign Treasurer's Reports, the Miguel Diaz de la Portilla campaign received and deposited one (1) contribution for \$20 on August 28, 2004. **{See Exhibit G.}**
2. Based on a review of campaign bank statements, the Diaz de la Portilla campaign deposited the following contributions more than 5 business days following the receipt thereof: two (2) contributions totaling \$400 on September 2, 2004; and two (2) contributions totaling \$1,308.00 on September 7, 2004. Florida Statute §106.05 states that all funds received by the campaign treasurer of any candidate must be deposited in a campaign depository prior to the end of the 5th business day following the receipt thereof.

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Mayoral Candidate – Miguel Diaz de la Portilla**

AUDIT CONCLUSION

Overall, the COE found that the campaign expenditures made from the Miguel Diaz de la Portilla campaign were in compliance with the requirements of Miami-Dade County Code §12-22 (G), “Use of Funds,” as no disallowed expenses were paid with public funds. However, the COE did observe a few instances of non-compliance with Florida Statutes Title IX, Chapter 106, “Campaign Financing.” Examples of lack of compliance with Florida statutes include payments to third party intermediaries, improperly using a secondary campaign depository for payment of a vendor, failure to close the campaign account within the requisite time period, reimbursements paid to individuals for disallowed costs, acceptance of campaign contributions within five (5) days of election date, and lack of sufficient supporting documentation for campaign expenses.

The COE appreciates the cooperation extended by those individuals involved with the Miguel Diaz de la Portilla campaign throughout the course of this audit.

**Commission on Ethics & Public Trust
Post-Election Audit of the Campaign Account of
Mayoral Candidate – Miguel Diaz de la Portilla**

EXHIBITS

- A.** Copy of Campaign Treasurer's Report (TR) Summary Page & Analysis of Campaign Bank Account
- B.** Copies of Bank Statements & Other Financial Documents for Account Nos.: 9660352866, 800188, & 9660440067
- C.** Copy of Bank Statement (Account No. 9660440067) Documenting Wire Transfer Payments to: The Victory Group
- D.** Copy of Check Request Form & Invoice for Reimbursement Paid to Luis Enrique Rojas
- E.** Copy of Check Request Form & Invoices for Reimbursement Paid to Renier Diaz de la Portilla
- F.** List of Unsupported Campaign Expenditures
- G.** Campaign Contribution made within Five Days of Election

APPENDIX

- 1.** Campaign's Response to the Draft Audit Report